

## JONES DAY

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October 16, 2020

### **Via ECF**

The Honorable Sarah Netburn  
Thurgood Marshall United States Courthouse  
40 Foley Square, Room 430  
New York, NY 10007

**Re: *In re Terrorist Attacks of September 11, 2001*, 03 MDL 1570 (S.D.N.Y.) (GBD) (SN)  
*Estate of John P. O'Neill, Sr. v. Al Baraka Inv. & Dev. Corp.*, 04-CV-1923 (S.D.N.Y.)  
(GBD) (SN)**

Dear Judge Netburn:

We are writing on behalf of Defendants Dubai Islamic Bank (“DIB”), International Islamic Relief Organization, Yassin Kadi, Muslim World League, and World Assembly of Muslim Youth (collectively, “O’Neill Defendants”) regarding the Plaintiffs’ motion for class certification in the *O’Neill v. Al Baraka* lawsuit (MDL ECF 5675).

The parties completed briefing class certification on March 13, 2020. MDL ECF 6065. On April 1, 2020, the Court indicated that it “may authorize oral argument if further elaboration of the arguments [in the class certification briefing] is necessary after the public health crisis passes.” MDL ECF 6112.

We are grateful for this Court’s extensive management of this case. Unfortunately, the COVID-19 crisis continues. Accordingly, the O’Neill Defendants write (i) to express their willingness to participate in oral argument by video conference (if the Court so desires) in order to move the process forward and (ii) to express their desire to obtain a ruling on the issue of class certification. *Cf.* Judge Netburn Individual Rule III.f.

The O’Neill Defendants seek a ruling on the issue of class certification such that certification in *O’Neill v. Al Baraka* is determined prior to the briefing and resolution of summary judgment and other dispositive motions (which presumably will occur following the completion of the ongoing expert witness discovery). As this Court is aware, the *O’Neill* plaintiffs waited nearly 16 years before moving for class certification earlier this year. *See* Jan. 15, 2020 Pls’ Mot. for Class Cert. (MDL ECF No. 5675). Following that motion, the parties thoroughly briefed the issues related to class certification. MDL ECF Nos. 5676, 6030, & 6065.

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Resolving the issue of class certification is critical because until there is a ruling on the issue, whether putative class members will be bound by rulings in this case (including a ruling on summary judgment and other dispositive motions) will remain uncertain. In particular, whether absent putative class members will be bound by any ruling on summary judgment and other dispositive motions depends upon the resolution of the class certification issue. Moreover, because the issue of class certification will be decided in the first instance by Your Honor, the issue likely may involve further briefing and argument before Judge Daniels (and potentially an appeal pursuant to Federal Rule of Civil Procedure 23(f)).

As a result, the *O'Neill* Defendants desire to move the process forward and are happy to present oral argument to the Court remotely in the event that the Court desires it. We have met and conferred with *O'Neill* counsel, who has indicated that he does not desire to join a letter to the Court on this topic at this time.

The *O'Neill* Defendants appreciate that the Court has many important competing demands on its time, and we are grateful for the Court's consideration.

Respectfully submitted,

/s/ Steven T. Cottreau

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cc: The Honorable George B. Daniels (via ECF)  
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